



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/598,964

11/09/2006

Antonio Pascucci

MTL-009

2670

29626 7590 10/01/2008
THE H.T. THAN LAW GROUP
WATERFRONT CENTER SUITE 560
1010 WISCONSIN AVENUE NW
WASHINGTON, DC 20007

EXAMINER

WOOLCOCK, LENWORTH A

ART UNIT

PAPER NUMBER

2629

MAIL DATE

DELIVERY MODE

10/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,964	Applicant(s) PASCUCCI, ANTONIO	
	Examiner LENWORTH WOOLCOCK	Art Unit 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 11-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/09/2006, 09/15/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

Claim 13-24 are objected to because of the following informalities: Claims 13-24 depends on cancelled claims 1 and 2. Claims 1-18 will be examined as being dependent on claim 11. Claims 19-24 will be examined as being dependent on claim 12. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16, 17, 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "vicinity" in claims 16, 17, 22, and 23 is a relative term which renders the claim indefinite. The term "vicinity" is not defined by the claim, the specification

Art Unit: 2629

does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12, 19-22, and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Howell et al (US 6385037).

Consider claim 12, Howell discloses an ergonomic device for manual input of control signals in a computer-controlled environment, the device comprising: a base geometrically arranged to rest on a support surface (**see fig. 1, element 28**); a manipulation member mounted on the base for manual manipulation by a user (**see fig. 1, element 17**), the manipulation member being movable relative to the base for generating corresponding input control signals within the computer environment (**see fig. 1 element 17**); a display provided on the base (**see fig. 1, element 30**); and a palm rest provided on the base for supporting the palm of the user's hand during use of the device (**see fig. 1, element 39**), wherein the manipulation member is arranged between the display and the palm rest (**see fig. 1, 17 is arranged between 39 and 30**), wherein the display is inclined in an acute angle to the support surface (**see fig. 1 and col. 2,**

lines 62-65, the display is pivotably attached and is able to obtain any angle to the supporting surface).

Consider claim 25, Howell discloses an ergonomic device for manual input of control signals in a computer-controlled environment, the device comprising: a base geometrically arranged to rest on a support surface (**see fig. 1, element 28**); a manipulation member mounted on the base for manual manipulation by a user (**see fig. 1, element 17**), the manipulation member being movable relative to the base for generating corresponding input control signals within the computer environment (**see fig. 1 element 17**); a display provided on the base (**see fig. 1, element 30**), wherein the display is inclined in an acute angle to the support surface (**see fig. 1 and col. 2, lines 62-65, the display is pivotably attached and is able to obtain any angle to the supporting surface**), the inclination of the display being steeper than the inclination of the top surface of the base outside the display (**see fig. 1, the display (element 30) angle can be set to have a steeper inclination than the top surface of the base (element 28)**)).

Consider claim 26, Howell discloses an ergonomic device for manual input of control signals in a computer-controlled environment, the device comprising: a base geometrically arranged to rest on a support surface (**see fig. 1, element 28**); a manipulation member mounted on the base for manual manipulation by a user (**see fig. 1, element 17**), the manipulation member being movable relative to the base for generating corresponding input control signals within the computer environment (**see fig. 1 element 17**); a display provided on the base (**see fig. 1, element 30**), wherein the

upper surface of the base is higher in the region of the display than in the region of base of the manipulation member **(see fig. 1, element 32)**.

Consider claim 19, Howell discloses the palm rest is exchangeable **(see col. 1 line 67- col. 2 line 7)**.

Consider claim 20, Howell discloses wherein the upper surface of the base is higher in the region of the display than in the region of base of the manipulation member **(see fig. 1, element 32)**.

Consider claim 21, Howell discloses the center axis of the manipulation member is inclined relative to the vertical on the support surface **(see fig. 1)**.

Consider claim 22, Howell discloses the device is configured such that, when the palm of the user's hand is located on the palm rest, the manipulation member is located in general alignment with and within reach of the middle three fingers of the hand **(see fig. 1)**, and a first group of buttons is arranged in one of the following positions: in the vicinity of the user's thumb, or in the vicinity of the user's smallest finger **(see fig. 4)**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 11, 13-16, 18, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howell et al (US 6385037).

Consider claim 11, Howell discloses an ergonomic device for manual input of control signals in a computer-controlled environment, the device comprising: a base geometrically arranged to rest on a support surface (**see fig. 1, element**); a manipulation member mounted on the base for manual manipulation by a user (**see fig. 1, element 17**), the manipulation member being movable relative to the base for generating corresponding input control signals within the computer environment (**see fig. 1 element 17**); a display provided on the base (**see fig. 1, element 30**); and a palm rest provided on the base for supporting the palm of the user's hand during use of the device (**see fig. 1, element 39**).

Gombert does not specifically disclose wherein at least the underside of one end of the base, preferably the underside of the region of the display, is elevated from the support. However, It would have been an obvious matter of design choice to have at least the underside of one end of the base, preferably the underside of the region of the display, is elevated from the support, since applicant has not disclosed that the

underside being elevated solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with a flat surface.

Consider claim 13, Howell discloses the palm rest is exchangeable (**see col. 1 line 67- col. 2 line 7**).

Consider claim 14, Howell discloses wherein the upper surface of the base is higher in the region of the display than in the region of base of the manipulation member (**see fig. 1, element 32**).

Consider claim 15, Howell discloses the center axis of the manipulation member is inclined relative to the vertical on the support surface (**see fig. 1**).

Consider claim 16, Howell discloses the device is configured such that, when the palm of the user's hand is located on the palm rest, the manipulation member is located in general alignment with and within reach of the middle three fingers of the hand (**see fig. 1**), and a first group of buttons is arranged in one of the following positions: in the vicinity of the user's thumb, or in the vicinity of the user's smallest finger (**see fig. 4**).

Consider claims 18 and 23, Gombert does not specifically disclose wherein at least the underside of one end of the base, preferably the underside of the region of the display, is elevated from the support. It would have been an obvious matter of design choice to have at least the underside of one end of the base, preferably the underside of the region of the display, is elevated from the support, since applicant has not disclosed that the underside being elevated solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with a flat surface.

Claims 17 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howell et al (US 6385037) in view of Numano et al (US 2003/0048258).

Consider claims 17 and 24, Howell discloses one group of buttons comprising buttons having a pre-set or predetermined operation (**see fig. 1, element 16**), said groups being arranged in the vicinity of the user's thumb (**see fig. 1, element 16**). Howell does not specifically disclose the device includes at least two groups of user input buttons, one of said groups comprising buttons whose function is able to be programmed, said group being arranged in the vicinity of the user's smallest finger. Numano discloses a device including at least two groups of user input buttons (**see fig. 1, element 111. and 114-116**), one of said groups comprising buttons whose function is able to be programmed (**see abstract**), said group being arranged in the vicinity of the user's smallest finger (**see fig. 1**).

It would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Howell, and have the device includes at least two groups of user input buttons, one of said groups comprising buttons whose function is able to be programmed, said group being arranged in the vicinity of the user's smallest finger, as taught by Numano, thus providing easily accessible customizable buttons, as discussed by Numano (**see par. [0007]**).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LENWORTH WOOLCOCK whose telephone number is (571)270-5152. The examiner can normally be reached on M-F 8:30am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amare Mengistu can be reached on 571-272-7674. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lenworth Woolcock/
Examiner, Art Unit 2629
/Amare Mengistu/
Supervisory Patent Examiner, Art Unit 2629